IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14/10/2003

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

Writ Petition No.4650 of 2003

R. Govindasamy .. Petitioner

-Vs-

1. The District Collector
Erode District, Erode 638 011.

2. The Assistant Director (Mines)
Erode 638 0111. .. Respondents

Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.K.S. Veluswamy
For M/s.C & K Law Firm

For Respondents : Mr.P. Gunaraj, Spl.G.P.

:O R D E R

The petitioner, who was a successful bidder, was granted lease to quarry ordinary rough stones and jally in Survey No.377/1, Gangapuram Village, Erode Taluk, of an extent of 2.00.0 hectares, by proceedings of the first respondent dated 26.12.1997, for a period of five years from 20.1.1998 to 19.1.2003, which admittedly expired. However, contending that he could not effectively operate the impugned quarry for a period of nine months from 15.10.2001 to 16.7.2002 due to heavy rainfall, the petitioner seeks a writ of Mandamus directing the respondents to extend the lease period/licence for quarrying ordinary rough stones and jally in Survey no.377/1, measuring 2.00.0 hectares situated at Gangapuram Village, Erode Taluk, by a period of nine months compensating the non quarrying period from 15.10.2001 to 16.7.2002.

2. Even though the learned counsel for the petitioner relies upon the ratio laid down in V. KARNAL DURAI v. DISTRICT COLLECTOR reported in 1999 (1) SCC 475, GANESAN v. DISTRICT COLLECTOR, TIRUCHIRAPALLI reported in 2002 (6) SCC 475, and C.PONNUDURAI v. THE STATE OF TAMIL NADU REP. BY ITS SECRETARY TO GOVERNMENT, INDUSTRIAL DEPARTMENT, CHENNAI & ANOTHER (Order dated
11.4.2003 made in W.P.No.6346 of 2000), the said decisions are not applicable to the facts and circumstances of the case, as what was laid down in the said

decisions is that the period of lease will run from the date of execution of the lease, as stated in the amended rules. But in the instant case, the petitioner is not contending that the lease itself was executed belatedly. Therefore, the ratio laid down in the above cases is not applicable.

3. In yet another decision relied upon by the petitioner, viz. BEG RAJ SINGH v. STATE OF U.P. reported in 2003 (1) SCC 725, it is held that the Government is under an obligation to grant lease for three years in accordance with its own policy decision, where the petitioner was wrongly disallowed to operate the mining lease for the full lease period. Again, I am of the considered opinion that the ratio laid down in the above case also does not apply to the instant case, as it is not the case of the petitioner that he was disallowed by the respondent to operate the mining lease for the full period.

4. On the other hand, it is not in dispute that there is no specific provision under the lease agreement enabling the petitioner to seek extension of lease period to compensate the non operating period nor a duty is cast on the respondent either to consider the request of the petitioner to extend the lease period or to compensate the non operative period. In the absence of any such provision either in the lease agreement or under the Rules, it may not be proper for this Court to issue a writ of Mandamus as prayed for.

The writ petition fails and therefore, the same is dismissed. No costs. Consequently, WPMP No.5895 of 2003 is also dismissed.

Index : Yes
Internet: Yes

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